

VIRGINIA:

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OF THE CIRCUIT COURT OF THE
ALBEMARLE CIRCUIT COURT

IN THE CIRCUIT COURT FOR THE COUNTY OF ALBEMARLE

TESTE: _____
CLERK/DEPUTY CLERK

DEVIN G. NUNES)

Plaintiffs,)

v.)

THE MCCLATCHY COMPANY)
ELIZABETH A. "LIZ" MAIR,)

-and-)

MAIR STRATEGIES, LLC)

Defendants.)
_____)

Case No. CL19-629

**TRIAL BY JURY
IS DEMANDED**

COMPLAINT

Plaintiff, Devin G. Nunes, by counsel, files the following Complaint against defendants, The McClatchy Company ("McClatchy"), Elizabeth A. "Liz" Mair ("Mair"), and Mair Strategies, LLC ("Mair Strategies"), jointly and severally.

Plaintiff seeks (a) compensatory damages and punitive damages in an amount not less than **\$150,000,000**, (b) prejudgment interest on the principal sum awarded by the Jury from May 23, 2018 to the date of Judgment at the rate of six percent (6%) per year pursuant to § 8.01-382 of the Virginia Code (1950), as amended (the "Code"), injunctive relief, and (d) court costs – arising out of defendants' defamation *per se* and common law conspiracy.

I. INTRODUCTION

1. This is a case about character assassination and a public company that weaponized its powerful pen and used it as a terrible sword.

2. Throughout 2018, McClatchy and its reporter, MacKenzie Mays, acting in concert with a Virginia political operative and her handlers, schemed to defame Plaintiff and destroy his reputation. The central purpose of the scheme was to interfere with Plaintiff's Congressional investigation of corruption by the Clinton campaign and alleged "collusion" between the Trump campaign and Russia during the 2016 presidential election.¹ Using the enormous power of McClatchy's nation-wide resources, McClatchy

¹ McClatchy is well-known for publishing false stories meant to advance the false narrative that associates of Donald J. Trump colluded with Russia to hack the 2016 presidential election. In April 2018, for instance, McClatchy published an article representing that Justice Department Special Counsel Robert Mueller had evidence that Donald Trump's lawyer, Michael Cohen, secretly visited Prague during the 2016 presidential campaign. [<https://www.mcclatchydc.com/news/politics-government/white-house/article208870264.html>] ("Mueller Has Evidence Cohen Was In Prague In 2016, Confirming Part Of Dossier"). The McClatchy story was presented as confirmation of an essential claim of the "Steele dossier" (a collection of allegations of collusion between Trump associates and Russia that were manufactured by a former British spy, Christopher Steele, cited in the most prominent accusations against the President's team). According to the Steele dossier, Cohen was a leading figure in the Trump-Russia collusion/conspiracy. The dossier represents that Cohen went to Prague in 2016 to have a conspiratorial meeting with Russian officials about the Kremlin's campaign to hack the 2016 U.S. presidential election. McClatchy's story about Cohen was not confirmed by any other media outlet, and Mueller's indictment of Cohen did not allege Cohen had this meeting in Prague or that he conspired with Russians at all to hack the U.S. election. McClatchy further attempted to defend the dossier's veracity with a follow-up piece claiming Cohen's cell phone had sent signals off cell towers in the Prague vicinity. [<https://www.mcclatchydc.com/news/investigations/article219016820.html>] ("Cell signal puts Cohen outside Prague around time of purported Russian meeting"). Once again, no other media outlet could confirm the McClatchy story, which, like the previous story, was thoroughly contradicted by both Mueller's Cohen indictment and Mueller's final Report. [[see https://assets.documentcloud.org/documents/5779700/AG-March-24-2019-Letter-to-House-and-Senate.pdf](https://assets.documentcloud.org/documents/5779700/AG-March-24-2019-Letter-to-House-and-Senate.pdf)] ("The Special Counsel's investigation did not find that the Trump campaign or anyone associated with it conspired or coordinated with Russia in its efforts to influence the 2016 U.S. presidential election.").

and its co-conspirators relentlessly attacked Plaintiff both in print and digitally – falsely and maliciously accusing Plaintiff of horrible crimes and improprieties, falsely attributing to him knowledge he did not have, implying that he was involved with cocaine and underage prostitutes, and imputing to Plaintiff dishonesty, unethical behavior, lack of integrity, and an unfitness to serve as a United States Congressman. Defendants’ statements were knowingly false and grossly offensive. They evince a heedless, palpable and reckless disregard for the truth.

3. True and honorable journalists serve a vital role in our republic, informing the American people about crucial matters that affect their lives and the country at large. The Defendants in this case abandoned the role of journalist, and chose to leverage their considerable power to spread falsehoods and to defame the Plaintiff for political and financial gain.

II. PARTIES

4. Plaintiff, Devin G. Nunes (“Nunes” or “Plaintiff”), is a citizen of California. Born October 1, 1973, Nunes has served in the United States House of Representatives since 2003. He currently represents California’s 22nd Congressional District, which is located in the San Joaquin Valley and includes portions of Tulare and Fresno Counties. He and his wife have three daughters. He is the author of the book, *Restoring the Republic*, which was published in September 2010. Nunes was born in Tulare, California. His family is of Portuguese descent, having emigrated from the Azores to California. From childhood, he worked on a farm that his family operated in Tulare County for three generations. Nunes raised cattle as a teenager, used his savings to begin a harvesting business, and then bought his own farmland with his brother.

Nunes graduated from Tulare Union High School. After associate's work at College of the Sequoias, Nunes graduated from Cal Poly San Luis Obispo, where he received a bachelor's degree in agricultural business and a master's degree in agriculture. Nunes was first elected to public office as one of California's youngest community college trustees in state history at the age of 23. As a member of the College of the Sequoias Board from 1996 to 2002, he was an advocate for distance learning and the expansion of programs available to high school students. In 2001, he was appointed by President George W. Bush to serve as California State Director for the United States Department of Agriculture's Rural Development section. He left this post to run for California's 21st Congressional District and now serves in the 22nd District as a result of redistricting in 2010. Nunes serves as Ranking Member of the House Permanent Select Committee on Intelligence, having been appointed to the Committee in the 112th Congress and serving as Committee Chairman during the 114th and 115th Congresses. He was appointed to the Ways and Means Committee in the 109th Congress and now serves as a Ranking Member of the Health Subcommittee and a member of the Trade Subcommittee, having served as Chairman of the Trade Subcommittee in the 113th Congress. Nunes previously served as a member of the House Budget Committee during the 111th Congress. In the 108th Congress, his first term in the House of Representatives, he served on the House Resources Committee, in which he was Chairman of the National Parks Subcommittee, and on the Agriculture and Veterans Affairs Committees. Congressman Nunes has traveled extensively to war zones to meet with soldiers and examine first-hand their status. As a member of the House Permanent Select Committee on Intelligence, he participates in oversight of the U.S. national security apparatus, including the

intelligence-related activities of seventeen agencies, departments, and other elements of the United States Government. Nunes authored the Hubbard Act of 2008 (H.R. 5825), which was named in honor of the Hubbard brothers of California – Jared, Nathan, and Jason. Jared and Nathan lost their lives serving in Iraq. Jason was discharged as a sole survivor, but was denied separation benefits upon leaving the Army. The Hubbard Act, which was enacted into law, provides sole survivors with numerous benefits that were already offered to other soldiers honorably discharged. It relieves sole survivors from repaying any portion of their enlistment bonus; entitles them to the educational benefits of the Montgomery GI Bill; and allows them to receive separation pay and transitional healthcare coverage. [<https://nunes.house.gov/about/>; <https://www.devinnunes.com/bio>].

5. Nunes' career as a United States Congressman is distinguished by his honor, dedication and service to his constituents and his country, his honesty, integrity, ethics, and reputation for truthfulness and veracity.

6. In 2018, during his last re-election for the 22nd Congressional District and while he served as a Member of the House Permanent Select Committee on Intelligence investigating corruption by the Clinton campaign and alleged Russian "collusion" during the 2016 Presidential Election, Nunes endured a multi-front, orchestrated defamation campaign of stunning breadth and scope, one that no human being should ever have to bear and suffer in their whole life.

7. This case involves the subversive efforts of McClatchy and its confederates to use the press as a for-pay political weapon.

8. Defendant, McClatchy, is a Delaware corporation, headquartered in California. McClatchy is a public company (NYSE:MNI) with operations in fourteen

(14) states, as well as national news coverage broadcast to Virginia and elsewhere through a Washington D.C. based bureau. The following table summarizes McClatchy's media companies, their digital platforms, newspaper circulation, and total unique visitors:

Media Company	Website	Location	Total UV ^(a)	Circulation ^(a)	
				Daily	Sunday
<i>Miami Herald</i>	www.miamiherald.com	Miami, FL	10,523,000	78,786	122,944
<i>The Kansas City Star</i>	www.kansascity.com	Kansas City, MO	4,912,000	98,046	137,517
<i>Star-Telegram</i>	www.star-telegram.com	Fort Worth, TX	4,161,000	181,289	169,300
<i>The Charlotte Observer</i>	www.charlotteobserver.com	Charlotte, NC	4,078,000	75,329	108,372
<i>The Sacramento Bee</i>	www.sacbee.com	Sacramento, CA	4,042,000	103,283	205,946
<i>The News & Observer</i>	www.newsobserver.com	Raleigh, NC	3,732,000	77,043	100,286
<i>The State</i>	www.thestate.com	Columbia, SC	3,084,000	41,650	91,929
<i>El Nuevo Herald</i>	www.elnuevoherald.com	Miami, FL	3,133,000	23,948	31,960
<i>Lexington Herald-Leader</i>	www.kentucky.com	Lexington, KY	2,231,000	46,268	70,370
<i>The News Tribune</i>	www.thenewstribune.com	Tacoma, WA	1,782,000	36,187	84,424
<i>The Wichita Eagle</i>	www.kansas.com	Wichita, KS	1,722,000	35,642	80,139
<i>The Fresno Bee</i>	www.fresnobee.com	Fresno, CA	1,694,000	55,713	92,982
<i>McClatchy DC Bureau</i>	www.mcclatchydc.com		1,519,000	N/A	N/A
<i>Idaho Statesman</i>	www.idahostatesman.com	Boise, ID	1,497,000	31,894	56,312
<i>The Modesto Bee</i>	www.modbee.com	Modesto, CA	1,332,000	33,426	58,175
<i>Belleville News-Democrat</i>	www.bnd.com	Belleville, IL	978,000	19,333	49,503
<i>The Tribune</i>	www.sanluisobispo.com	San Luis Obispo, CA	882,000	17,079	27,520
<i>The Telegraph</i>	www.macon.com	Macon, GA	806,000	19,169	23,716
<i>The Island Packet</i>	www.islandpacket.com	Hilton Head, SC	766,000	15,436	16,528
<i>The Herald</i>	www.heraldonline.com	Rock Hill, SC	762,000	9,672	12,100
<i>Tri-City Herald</i>	www.tri-cityherald.com	Kennewick, WA	762,000	18,255	29,487
<i>The Bradenton Herald</i>	www.brandenton.com	Bradenton, FL	695,000	17,825	22,311
<i>Ledger-Enquirer</i>	www.ledger-enquirer.com	Columbus, GA	595,000	14,573	17,355
<i>Sun Herald</i>	www.sunherald.com	Biloxi, MS	590,000	20,833	30,016
<i>The Sun News</i>	www.thesunnews.com	Myrtle Beach, SC	578,000	21,144	27,167
<i>Centre Daily Times</i>	www.centredaily.com	State College, PA	577,000	11,399	14,415
<i>The Bellingham Herald</i>	www.bellinghamherald.com	Bellingham, WA	563,000	10,124	13,214
<i>The Olympian</i>	www.theolympian.com	Olympia, WA	516,000	12,314	27,685
<i>Merced Sun-Star</i>	www.mercedsunstar.com	Merced, CA	481,000	9,993	—
<i>The Herald-Sun</i>	www.heraldson.com	Durham, NC	371,000	8,177	8,613
<i>The Beaufort Gazette</i>	www.beaufortgazette.com	Beaufort, SC	^(a) N/A	4,738	5,068
			59,364,000	1,148,568	1,735,354

McClatchy's media companies range from large daily newspapers and news websites serving metropolitan areas to non-daily newspapers with news websites and online platforms serving small communities. For the full year ended December 31, 2018, McClatchy had 66.4 million average monthly unique visitors to its online platforms and 3.9 billion page views of its digital products. McClatchy's primary sources of revenues are digital and print advertising (national and major accounts, retail accounts, classifieds and direct marketing) and audience subscriptions. Audience revenues include either digital-only subscriptions or bundled subscriptions, which include both digital and print.

McClatchy is at home in Virginia. Its print newspapers are delivered to businesses and consumers throughout Virginia, including Albemarle County, every day by large distributors and independent contractors. Its digital media is transmitted to Virginia via active websites and content providers, such as www.fresnobee.com and www.twitter.com. This case involves McClatchy's delivery to and publication of defamatory statements in Albemarle County and throughout Virginia, and the publication of false and defamatory statements by McClatchy and its agents and co-conspirators who were, at all relevant time, physically present in Virginia.

9. McClatchy and its media companies, including the *Fresno Bee*, regularly use Twitter as part of their businesses. [https://twitter.com/mcclatchy?lang=en&lang=en;https://twitter.com/FresnoBee?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor]. As of April 5, 2019, McClatchy followed 2,218 persons on Twitter and had 11,400 followers. The *Fresno Bee* (@FresnoBee) followed 721 persons and had 87,000 Twitter followers. Many of McClatchy's reporters and editors also use Twitter. [See, e.g. https://twitter.com/MackenzieMays?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor (MacKenzie Mays); <https://twitter.com/marekthebee?lang=en> (Marek Warszawski); <https://twitter.com/josephkieta?lang=en> (Joseph Kieta)].

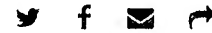
10. To maximize the insult, embarrassment, humiliation, and injury to Nunes' reputation and as evidence of its actual malice, McClatchy chose to publish its false and defamatory statements (detailed below *in haec verba*) ***both*** in print in newspapers, ***and*** online via its websites, including www.fresnobee.com and www.mcclatchydc.com/, ***and*** to the Twitter universe. On May 23, 2018, for instance, McClatchy published the following article written by MacKenzie Mays ("Mays"):

BUSINESS

A yacht, cocaine, prostitutes: Winery partly owned by Nunes sued after fundraiser event

BY MACKENZIE MAYS

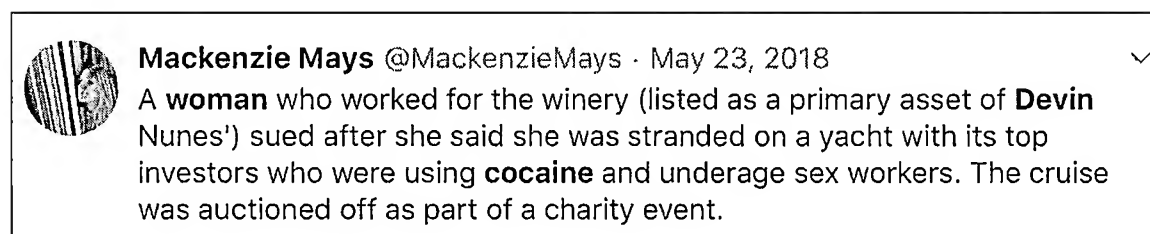
MAY 23, 2018 11:56 AM, UPDATED MAY 24, 2018 02:44 PM



[<https://www.fresnobee.com/news/business/article210912434.html>]. As of April 5, 2019, Mays followed 5,654 persons on Twitter and had 5,151 followers. In furtherance of McClatchy's scheme to defame Nunes and injure his reputation,² Mays tweeted and

² The timing of McClatchy's publication of the Yacht/Cocaine/Prostitutes article on May 23, 2018 demonstrates that the article was part of a scheme to defame Nunes. McClatchy published the article during the 2018 Congressional election campaign, just weeks before the June 5, 2018 primary. The story was not "news" in 2018, however. As was well-known to McClatchy, the incident aboard the yacht in 2015 and the lawsuit that followed were extensively reported on by *Winebusiness* in 2016. [<https://www.winebusiness.com/news/?go=getArticle&dataid=176634>]. *Winebusiness* is a monthly magazine with a distribution throughout North America. It is the leading producer of information, events and resources for the wine industry in the United States. [<https://www.winebusiness.com/company/>]. *Winebusiness'* coverage of the incident aboard the yacht was a matter of common knowledge, for instance, on Twitter. [E.g., <https://twitter.com/msgoddessrises/status/845320410493206529>].

republished the Yacht/Cocaine/Prostitutes article to her 5,151 followers on Twitter with the following message:



[<https://twitter.com/MackenzieMays/status/999366435368398848>]. In her tweet, Mays chose to emphasize the words “**woman**”, “**Devin**” and “**cocaine**”.³

McClatchy’s Yacht/Cocaine/Prostitutes Story

11. The McClatchy Yacht/Cocaine/Prostitutes article reported about an incident that was alleged to have occurred on board a yacht⁴ in 2015. The incident involved an employee of the Alpha Omega Winery. Nunes was (and is) a limited partner of the Alpha Omega Winery. As an event for charity, the yacht had been auctioned off for a day’s use by a third-party. Guests aboard the yacht⁵ were alleged to have used cocaine and engaged in sex with seemingly underage prostitutes. The employee of Alpha Omega Winery later sued the Winery over the incident.

³ On May 24, 2018, Mays republished the Yacht/Cocaine/Prostitutes story to a new target audience – the print and online readers of the *Spokesman-Review*. [<http://www.spokesman.com/stories/2018/may/24/a-yacht-cocaine-prostitutes-winery-partly-owned-by/>].

⁴ The name of the yacht is the USS Alpha Omega. McClatchy intentionally concealed from readers the fact that the yacht is not owned by the Alpha Omega Winery.

⁵ In the article, Mays falsely stated that the guests were 25 of the Winery’s “top investors”. In truth, Mays knew that the individuals on the yacht were not affiliated with the Alpha Omega Winery in any way. In November 2016, the Winery publicly stated that “[n]o one in the group had any personal or business connection to the winery or its owners, and no Alpha Omega staff knew anyone in the group.” [<https://www.winebusiness.com/news/?go=getArticle&dataid=176634>].

12. The defamatory implication (the gist) of McClatchy's Yacht/Cocaine/Prostitutes story was that Nunes was involved in the cocaine/sex fueled "fundraiser." This is immediately evident from the prominent placement of Nunes' name alongside "prostitutes" and "cocaine" in the story's headline ("**A yacht, cocaine, prostitutes: Winery partly owned by Nunes sued after fundraiser event**"). The headline also materially mischaracterizes the event aboard the yacht as a "fundraiser".⁶ It was not a fundraiser at all. It was a cruise resulting from a charitable donation. The McClatchy headline intentionally omitted the word "charity" and labeled the event a "fundraiser" in a clear effort to imply it was a political fundraising event that a politician like Congressman Nunes would naturally attend. Furthermore, the online versions of the story are punctuated by a prominent picture of Nunes and multiple film clips of him. Indeed, the entire purpose of every element of the Yacht/Cocaine/Prostitutes article – the headline, the photo, the film clips, and the text itself – is to link Nunes to an event that McClatchy actually knew before publication he had no involvement with.

13. McClatchy succeeded in linking the cocaine/sex-fueled "fundraiser" with "prostitutes" to Nunes. The defamatory meaning of the article was clearly understood by all who read and saw McClatchy's publication. NBC News, Capitol Hill Correspondent, Kasie Hunt ("Hunt"), has 421,500 followers on Twitter:

Kasie Hunt 

@kasie

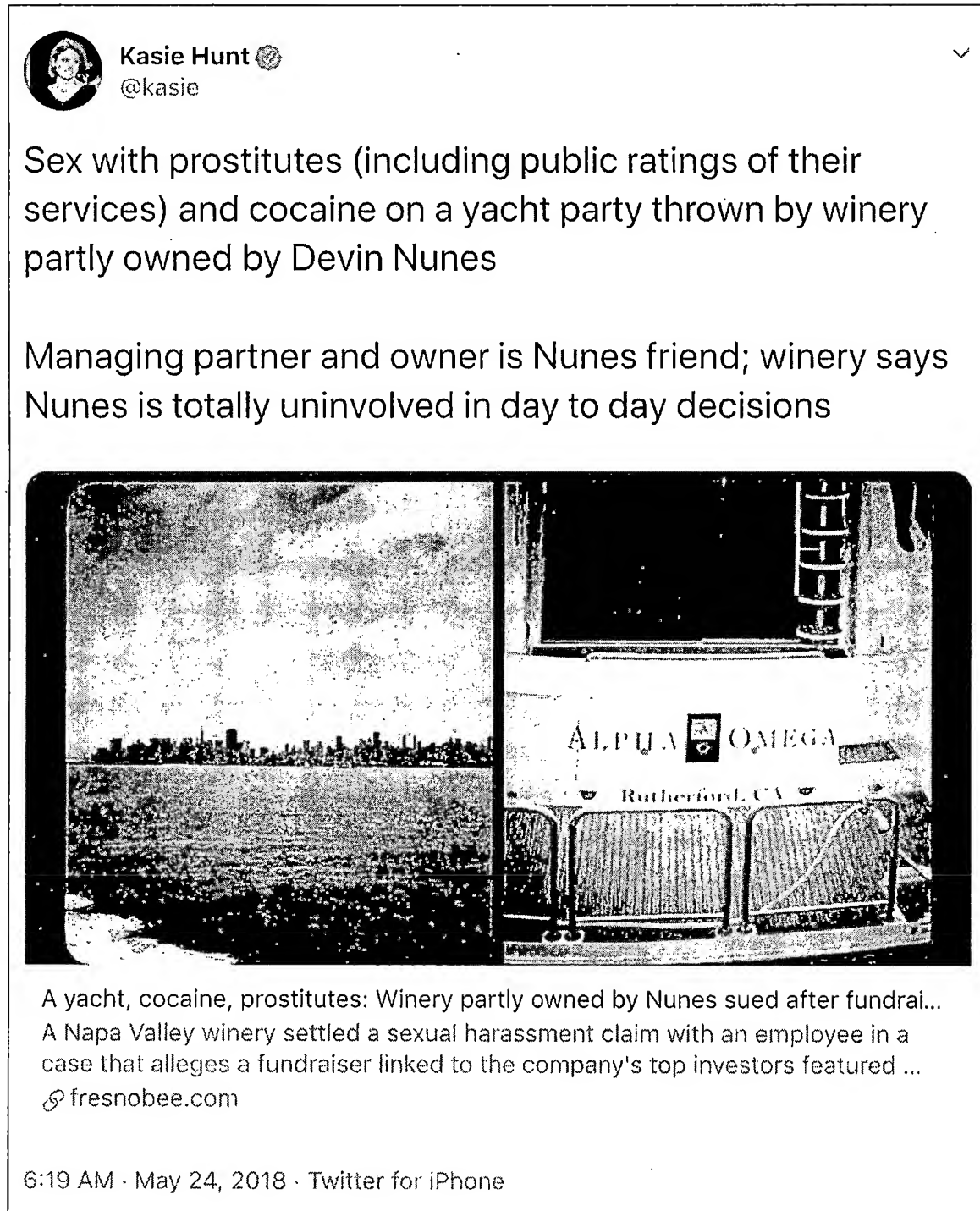
@NBCNews Capitol Hill Correspondent. Host, @KasieDC, Sundays 7-9 pm ET on @MSNBC. Once & therefore always #Wire1 at The Associated Press.

📍 Washington, DC 📅 Joined January 2008

2,123 Following **421.5K** Followers

⁶ The employee's lawsuit alleges that the event was a "charity fundraiser".

Hunt tweeted the following:



14. The Yacht/Cocaine/Prostitutes story contains multiple intentional falsehoods:

a. The story falsely states that “[i]t’s unclear ... if he [Nunes] was ... affiliated with the fundraiser.” In truth, prior to McClatchy’s publication of the article, McClatchy had been expressly informed by the Alpha Omega Winery that Nunes had no affiliation whatsoever with the event. There was nothing “unclear” about it. McClatchy knew that Nunes had no affiliation with the “fundraiser”, yet still claimed (falsely) that “[i]t’s unclear ... if he was ... affiliated with the fundraiser.” McClatchy’s statements are provably false because they mispresent McClatchy’s and Mays’ knowledge and state of mind and because it is absolutely false to imply, infer or insinuate that Nunes had any involvement of any kind in or with the incident aboard the yacht.

b. McClatchy’s statement that it was “unclear ... if he [Nunes] was aware of the lawsuit” is similarly false and defamatory. At the time it published the Yacht/Cocaine/Prostitutes article, McClatchy had no reason to believe that Nunes was ever made aware of the lawsuit. By ascribing to Nunes “aware[ness]” of the lawsuit and by failing to state how and when Nunes became aware of the lawsuit, McClatchy imputed dishonesty and wrongdoing to Nunes. McClatchy made it appear as if Nunes and his “friend” suppressed the fact that a lawsuit had been filed against the Winery.

c. McClatchy’s Yacht/Cocaine/Prostitutes article originally stated (falsely) that Alpha Omega Winery sold wine to “**Russian clients while the congressman was at the helm of a federal investigation of Russian meddling into the presidential election**” (emphasis added), falsely implying that Nunes had a conflict of interest and acted unethically and improperly during his investigation of alleged Russian “collusion”. McClatchy’s article originally stated as follows:

While Nunes' ties to Alpha Omega made national headlines last year because it was discovered the winery sold wine to Russian clients while the congressman was at the helm of a federal investigation of Russian meddling into the presidential election, there has been little mention of the lawsuit.

McClatchy's statement was blatantly false because the wine sale occurred in 2013 and the "Russian meddling investigation" did not begin until 2017. Recognizing the blatant falsehood, McClatchy performed two edits on the sentence. In the first edit, McClatchy repeated the assertion that Alpha Omega sold wine to Russians while Nunes led the investigation, but added a tweet from Alpha Omega that declared the wine sale to Russia had occurred in 2013. After the first edit, the sentence read:

While Nunes' ties to Alpha Omega made national headlines last year because it was discovered the winery sold wine to Russian clients while the congressman was at the helm of a federal investigation of Russian meddling into the presidential election, there has been little mention of the lawsuit.

(Note: In response to the story, Alpha Omega Winery called attention to a tweet about the wine sale.)

Alpha Omega Winery
@ACowinery

The only time Alpha Omega did business in Russia was in 2013 when a broker handled a one-time transaction for 22 cases of wine.

3:41 PM · Mar 23, 2017

18 45 people are talking about this

Winebusiness.com wrote about the suit in 2016 but did not mention Nunes.

McClatchy then performed a second edit – a stealth edit.⁷ McClatchy deleted the Alpha Omega tweet and changed the language of the passage to specify that the sale was in 2013 and that the “discovery” of the sale – no longer the sale itself – occurred “amid” Nunes’ investigation. In its final form, the sentence reads as follows:

⁷ “Stealth edits” are silent but substantial changes in content or tone to a piece of published media. For instance, in 2017, the Washington Post silently rewrote an article on Russian hackers, changing the reported details radically in just the first few hours following publication when it became clear that the original version contained serious factual errors. After multiple outlets drew public attention to the Post’s lack of editorial acknowledgement of the alterations, the Post added an editor’s note to the piece. [<https://publiceditor.blogs.nytimes.com/2016/03/17/new-york-times-bernie-sanders-coverage-public-editor/>].

Nunes' ties to Alpha Omega made national headlines last year because it was discovered the winery sold wine to Russian clients in 2013. The discovery came amid Nunes' ongoing involvement in a federal investigation of Russian meddling into the presidential election.

McClatchy failed to attach a note to the story to indicate that edits had been made or that the story originally contained the false claim that Alpha Omega's wine sale to Russia occurred during Nunes' Russia investigation. In this regard, McClatchy perpetrated a fraud on its readers, abandoned journalistic standards, integrity and ethics [e.g., <https://www.spj.org/pdf/spj-code-of-ethics.pdf>], and even violated its own Code of Business Conduct and Ethics with regard to fair dealing. http://media.corporate-ir.net/media_files/IROL/87/87841/McClatchy%20Code%20of%20Conduct%202018%20web.pdf ("Our goal is to be regarded as a company that does business with integrity. Accordingly, each employee should endeavor to deal fairly with the Company's customers, suppliers, competitors and employees. You must never take unfair advantage of anyone through manipulation, concealment, abuse of privileged information, misrepresentation of material facts or any other unfair-dealing practices.")].

d. Compounding its intentional manipulation, stealthy concealment and unfair business practices, on June 14, 2018 the "editorial board" of the *Fresno Bee* published a statement purporting to rebut criticism from Nunes over the Yacht/Cocaine/Prostitutes story. The *Bee* stated the following:

"Claim: 'The Fresno Bee also falsely reported that Alpha Omega sold wine to Russia while Mr. Nunes led an investigation of that country.'

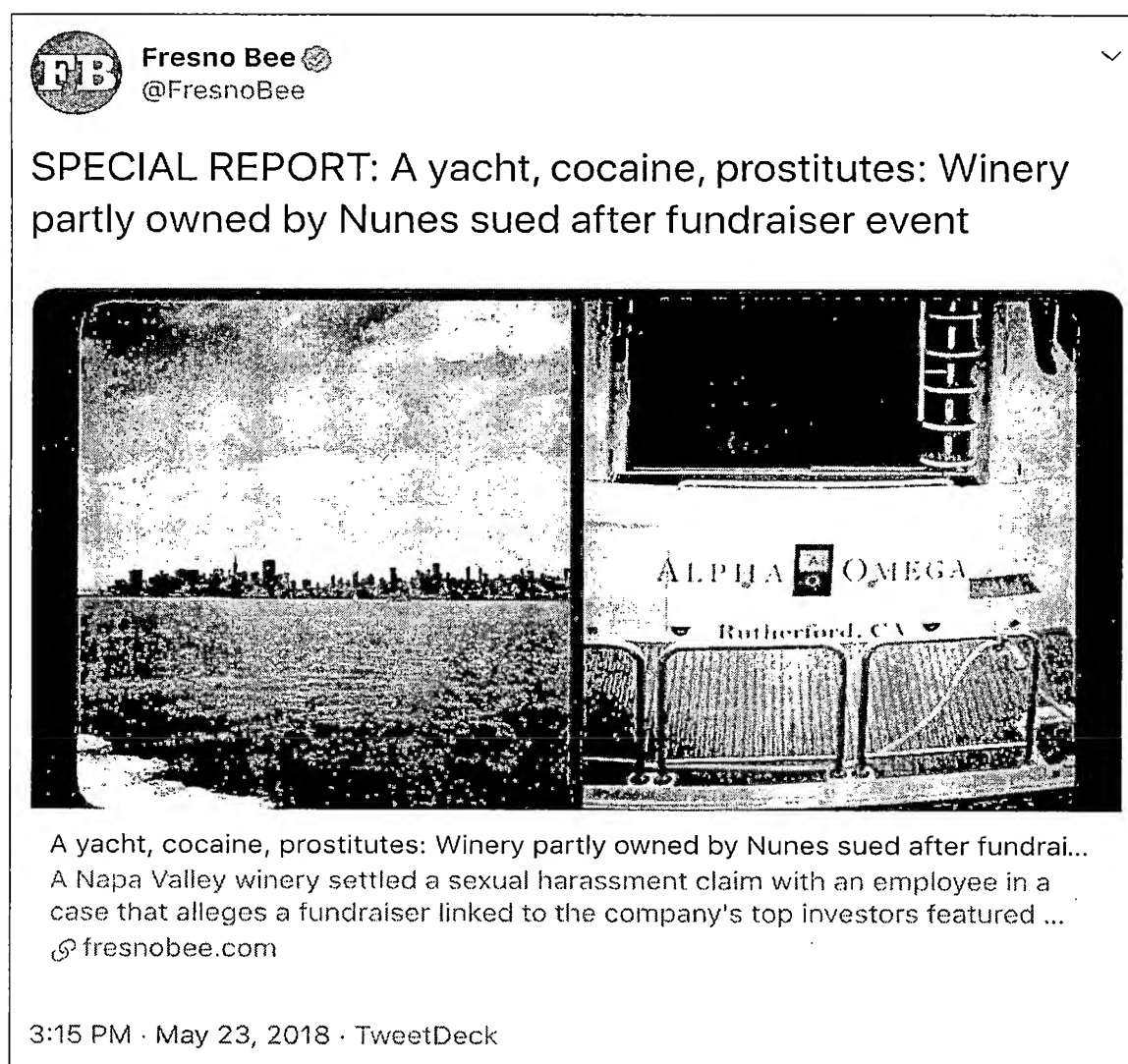
Fact: The story reported that Alpha Omega sold wine to Russian clients in 2013. A Russian alcohol distributor called Luding lists Alpha Omega as one of its American suppliers. The discovery of that relationship came as Nunes and his committee looked into the suspected election meddling. It should be noted that Alpha Omega tweeted it only did business in Russia in 2013. That involved a single transaction for 22 cases. But Luding still lists Alpha Omega on its website."

[<https://www.fresnobee.com/opinion/editorials/article213209074.html>]. Rather than admit the fact that the original Yacht/Cocaine/Prostitutes article contained a material misrepresentation and that McClatchy had secretly edited the article after being caught in a lie, the *Fresno Bee* adamantly refused to acknowledge they had falsely reported that the wine sale occurred “**while**” Nunes led the Russia investigation. The original false report, the attempt to hide it with an unacknowledged stealth edit, and the absolute denial in the June op-ed that the false report was published at all, demonstrates McClatchy’s reckless disregard for the truth. This conduct is a gross departure from accepted journalistic standards and evidences spite, ill-will and criminal intent.

e. McClatchy’s fraudulent editorial practices regarding Congressman Nunes did not stop in June 2018. McClatchy continued to exhibit a reckless disregard for the truth. In an October 3, 2018 interview with the *Visalia Times Delta*, *Fresno Bee* executive editor and senior vice president, Joe Kieta (“Kieta”), represented that he was proud that the *Bee* had never had to issue a retraction on its coverage of Nunes. [<https://www.visaliatimesdelta.com/story/news/politics/elections/2018/10/03/devin-nunes-escalates-war-against-fresno-bee/1503743002/>]. Kieta’s statement was patently deceitful. He hid from readers the fact that, while the *Fresno Bee* did not subject its Nunes coverage to retractions – which are public acknowledgements of mistakes – the *Bee* did print false statements about Nunes, corrected those statements through stealth edits (which it concealed from readers), and then deceptively refused to acknowledge that any of this occurred at all. During the interview with the *Visalia Times Delta*, Kieta also did not hesitate to slander Nunes. Kieta said, “Nunes ... doesn’t care about the truth”. Kieta’s insulting and hurtful statements about Nunes illustrate both the depth of

McClatchy's actual malice and the professional shortcomings in McClatchy's editorial leadership.

15. In furtherance of the scheme to defame Nunes, McClatchy chose to spread the poison in its Yacht/Cocaine/Prostitutes article to the farthest reaches of its readership in Virginia and throughout the United States. In addition to publication via print media and publication online, McClatchy chose to republish the false and defamatory Yacht/Cocaine/Prostitutes article to yet another target audience – the *Fresno Bee's* 87,000 Twitter followers:



The Yacht/Cocaine/Prostitutes article was republished online and retweeted and posted on the Internet hundreds of thousands of times. It travelled through social media like wildfire. Readers understood McClatchy's statements to mean that Nunes was involved with cocaine and underage prostitutes. The defamatory meaning of the statements in the Yacht/Cocaine/Prostitutes article was apparent from the words carefully chosen by McClatchy. [See, e.g., <https://www.mercurynews.com/2018/05/24/rep-devin-nunes-linked-to-napa-winery-that-allegedly-held-prostitutes-and-cocaine-cruise/> ("A new report links California Republican Congressman Devin Nunes to a lawsuit concerning a Napa Winery's San Francisco Bay cruise that allegedly featured prostitutes and cocaine. The link was made by a California newspaper Nunes recently described in extremely unflattering terms.").⁸ McClatchy's words obviously had their desired effect – they linked Nunes to "underage prostitutes" and cocaine", see, e.g.:

<https://twitter.com/adamparkhomenko/status/999384522335584256?lang=en>;⁹

https://www.youtube.com/watch?v=gIc_16_vaH4 ("Devin Nunes just got caught up in a disgusting yacht, cocaine, prostitute scandal");

<https://www.politico.com/story/2018/05/25/devin-nunes-russia-probe-fundraising-609492> ("On Wednesday, a report in the Fresno Bee linked Nunes to a winery that allegedly held a wild cocaine-and-prostitutes evening yacht cruise – a winery where the congressman is a part-owner.");

⁸ In February 2018, Nunes described the *Fresno Bee* as a "left-wing rag" and a "joke". McClatchy obviously harbored a grudge against Nunes as a result of Nunes' statements about the *Fresno Bee*.

⁹ Adam Parkhomenko (@AdamParkhomenko) is a Democratic strategist and political advisor to Hillary Clinton who lives and works in McLean, Virginia. In May 2018, when he republished McClatchy's article in Virginia, Parkhomenko had over 250,000 followers on Twitter. [See <https://twitter.com/AdamParkhomenko?lang=en>].

<https://www.usatoday.com/media/cinematic/video/35299723/nunes-linked-winery-sued-over-coke-prostitute-yacht-party/>;

<https://twitter.com/DavidCayJ/status/1049287537137782784> (“Underage hookers, cocaine & @DevinNunes – a story never denied by winery that paid a hush money settlement. The Fresno politician works to ensure there is no serious Congressional investigation of Putin's illegal aid to Trump campaign”).

16. Defendant, Mair, is a citizen of Virginia. She lives and works in Arlington County. Mair joined Twitter in either 2007 or 2010. She currently operates a twitter account titled “BeingSuedByDevinNunes”,¹⁰ with the handle/tag “@LizMair”. As of April 5, 2019, Mair followed 309 Twitter accounts/users and had 44,000 followers. [https://twitter.com/LizMair?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor; see also <https://twitter.com/lizamair?lang=en>]. Mair’s Twitter profile discloses that she is a “Comms strategist. Blunt (‘16). Walker (‘12-‘15).¹¹ Rand Paul (‘13). Perry (‘12) Fiorina (‘10); former RNC Online Comms Director; Tory; libertarian; Arsenal fan”.

¹⁰ Prior to March 19, 2019, Mair’s username on Twitter was “BrandValue\$4B”. After Plaintiff filed suit against Mair and others in the Circuit Court for the County of Henrico [*Nunes v. Twitter et al.*, Case CL19-1715], Mair changed her username to “BeingSuedByDevinNunes”. Mair is a political operative and a digital terrorist for-hire. Her job on behalf of her benefactors is to target the opposition, carry out smear campaigns in coordination with third-parties in Virginia and elsewhere in the United States, and, in the process, to create extreme negative publicity for the targets, in this case Plaintiff. Mair is conscious that Twitter is an echo-chamber. She intentionally changed her identity on Twitter to exploit Plaintiff’s name solely to obtain more followers and to maliciously increase the audience, scope and breadth of her false and defamatory statements.

¹¹ Mair was terminated from the Walker campaign shortly after she tweeted derogatory and disparaging statements about the residents of Iowa. [<https://www.desmoinesregister.com/story/news/politics/2015/03/16/scott-walker-digital-chief-taken-swipes-iowa/24865861/>; <https://thehill.com/blogs/ballot-box/236052-under-fire-walker-aide-liz-mair-resigns>].

Mair claims that she is “the US’ leading right-of-center online communications operative”. [<https://www.lizmair.com/biography.php#navbar>]. In December 2015, Mair founded a super PAC called “Make America Awesome” (FEC Id. # C00594176), whose sole (and failed) purpose was to block and reverse Donald’s Trump’s ascent in politics by using “unconventional and cost-effective tactics”.¹² Mair claims that since 2011 she has “advised multiple Fortune 500, FTSE 100 and other publicly-traded corporate clients, as well as numerous large trade associations and prominent non-profits on communications in the US, the UK and the EU.” On her *LinkedIn* profile, Mair admits that:

What do I do for these clients? Anonymously smear their opposition on the Internet.

More broadly? Get sh*t done.

[<https://www.linkedin.com/in/liz-mair-76b03a2/>]. During Nunes’ re-election campaign in 2018, Mair conspired with (and presumably was paid by) one or more as-yet unknown “clients” to attack and smear Nunes. True to her word on *LinkedIn*, Mair relentlessly smeared and defamed Nunes throughout 2018, filming stunts at Nunes’ office in

¹² Plaintiff was a member of the Trump transition team. Plaintiff is widely recognized for his emphatic and repeated statements throughout 2018 that the accusations of “collusion” between the Trump campaign and the Russians were 100% false. [https://www.realclearpolitics.com/video/2018/09/16/devin_nunes_shocking_number_of_americans_have_drunk_the_russia_kool-aid_truly_believe_gop_is_controlled_by_kremlin.html]. As evidenced by Attorney General Barr’s summary of the Mueller Report, Plaintiff was 100% correct in his assessment. At all times relevant to this case, Mair harbored spite, ill-will, actual malice, and a desire to hurt Nunes because of Nunes’ support for President Trump and Mair’s deep-seeded hatred of Trump. Mair is famous for her appearance on CNN, where she referred to presidential candidate Donald Trump as a “loud mouth dick”. [https://www.realclearpolitics.com/video/2016/08/04/republican_strategist_liz_mair_trump_a_loud_mouth_dick.html].

Washington, D.C. and posting them online, publishing videos on YouTube that falsely accused Nunes of multiple crimes, repeatedly publishing false and defamatory statements on Twitter,¹³ defaming Nunes online and to the press, and filing fraudulent ethics complaints against Nunes accusing him, *inter alia*, of violating House Ethics Rules, *e.g.*:

<https://www.youtube.com/watch?v=fOp7se7n9XI;>

https://www.youtube.com/watch?v=lHGVMcVN_SQ;

<https://www.youtube.com/watch?v=aUseOu2ReS4;>¹⁴

https://www.crowdpac.com/campaigns/386770/hold-devin-nunes-accountable?ref_code=share&utm_source=sharer-ask&utm_medium=receipt&utm_campaign=S0qacrvwpg4P2coDlGw1ujXljN1y7HxX&utm_content=20&source_code=tw-receipt-first;¹⁵

¹³ Mair falsely tweeted to her then 37,900 followers, *inter alia*, that Nunes “voted for warrantless wiretapping and unlimited surveillance of Americans’ emails (incl Carter Page’s)” [<https://twitter.com/LizMair/status/1041873937427300352>]; that Nunes broke the law when he “spent contributions that are supposed to be used for the express purposes of the PAC or committee in question, and not for financing their personal lifestyle choices. That is a legal problem, not just an ethical or optics-related one” [<https://twitter.com/LizMair/status/1032990757869813761>]; and that Nunes leaked text messages between a lobbyist and Senator Mark Warner to Fox News [<https://twitter.com/LizMair/status/969409912366338049>]. Even after Nunes won the election, Mair continued to attack him, stating, *inter alia*, that Nunes was “still a clown with big league ethical issues that may well cost him his seat in 2020” [<https://twitter.com/LizMair/status/1095574579223949312>].

¹⁴ Among the false statements published by Mair in this video is that “Nunes is still entangled with a winery implicated in a scandal involving his co-investors, cocaine and child prostitutes”.

¹⁵ In this publication, Mair makes the following false statements about Nunes: “Ethical leadership in government? He’s invested in a winery that allegedly solicited capital by using underage prostitutes. Really.”

<https://www.fresnobee.com/news/politics-government/politics-columns-blogs/political-notebook/article214693435.html>,¹⁶

<https://thehill.com/blogs/blog-briefing-room/news/398980-activist-group-trolls-nunes-with-new-sneakers-to-run-away-from>;

<https://swampaccountabilityproject.com/letter/>.

17. Throughout 2018, Mair was out to “stick it” to Nunes. By her own admissions on Twitter, she “hates Devin Nunes” and “dumped¹⁷ a lot” on Nunes. [<https://twitter.com/LizMair/status/1046599052996096001>]. In furtherance of the conspiracy between Mair and McClatchy, Mair pitched false narratives to McClatchy. McClatchy knew that Mair was a paid political operative, and, specifically, that she was being paid by “clients” to smear Nunes. McClatchy accepted Mair’s preconceived storylines, and agreed to print them. Mair offered egregious soundbites to McClatchy that McClatchy simply republished in articles without any fact-checking. [E.g., <https://www.mcclatchydc.com/news/politics-government/article215099780.html> (“the fact is, the FEC is not going to look favorably on a dude who uses his tax-exempt political entity like a personal slush fund, flying himself to Boston to watch them while apparently engaging in no activity relevant to the purpose of the political organization,”

¹⁶ In this article written by Mays, Mair published the following statement to McClatchy’s *Fresno Bee*, “OCE [the Office of Congressional Ethics] should prioritize a review of Rep. Nunes’ investment and involvement in the Alpha Omega Winery, and the facts reported by The Fresno Bee. Such review should be undertaken as swiftly as possible”.

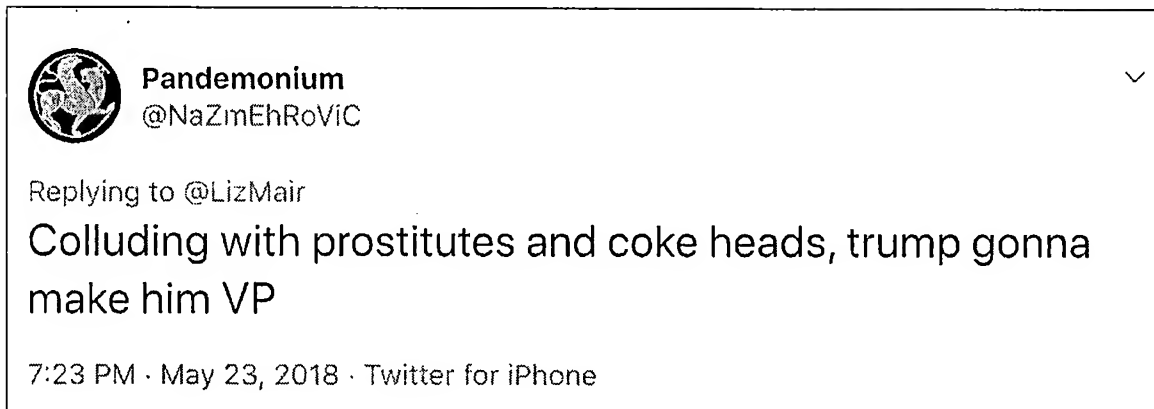
¹⁷ Opposition research (also called “oppo” research) is the practice of collecting information on a political opponent or other adversary that can be used to discredit or otherwise weaken them. The information can include biographical, legal, criminal, medical, educational, or financial history or activities. “Oppo dumps” are used by political campaigns to systematically supply files of damaging information to press outlets, including matters of the public record, video footage from party archives and private collections, as well as private intelligence gathered by operatives.

said Liz Mair”). Mair and McClatchy coordinated their defamation campaign against Nunes. On many occasions, Mair tweeted McClatchy’s articles to her 37,900 followers on the same day the articles were published by McClatchy. Mair and McClatchy, acting in concert, escalated the defamation. In her May 23, 2018 tweet, with Mays’ article attached, Mair wrote:



[<https://twitter.com/LizMair/status/999407730220650497>]. Mair’s May 23, 2018 tweet implied that Nunes colluded with prostitutes and cocaine addicts. Mair’s tweet was

retweeted 1,200 times and liked 1,600 times. Those who read Mair's tweet clearly understood its defamatory meaning. *See, e.g.:*



While the conspiracy with McClatchy continued, Mair tweeted one of her most egregious and defamatory statements about Nunes:



[<https://twitter.com/LizMair/status/1010359462891327490>].¹⁸ Mair’s disdain and malice towards Nunes is exemplified by her reference to him as “Dirty Devin Nunes”. [<https://twitter.com/LizMair/status/1020037699472850945> (“Dirty Devin Nunes has perfected the art of converting attacks on the DOJ and the Democratic leadership ‘cabal’ (his actual word choice to describe people like Chuck Schumer and Adam Schiff) into whopping, great loads of cash naively donated by Republicans thousands of miles away from places like Fresno, Visalia and Tulare”)].

18. Defendant, Mair Strategies, is a Virginia limited liability company, active and in good standing. Mair is the sole member and manager of Mair Strategies. On its website, www.mairstrategies.com, Mair Strategies claims to be a “boutique communications and public relations firm, with specialties in online, political, and crisis communications, as well as opposition research formulation and seeding.” Mair Strategies represents that it is an “entirely virtual firm staffed by politics veterans” – “the firm is ‘lean and mean’ and brings an aggressive, hard-hitting, presidential campaign-style approach to issues work it manages and executes for its clients.” [<https://www.mairstrategies.com/about.php#navbar>]. At all times relevant to this action, Mair acted within the scope of her employment for Mair Strategies, acted during work hours and while conducting Mair Strategies’ business, using a Twitter account that linked back to Mair Strategies, and with the knowledge and actual or apparent authority of Mair Strategies. Mair Strategies is liable for Mair’s defamation of Nunes under the doctrine of *respondeat superior*.

¹⁸ Upon information and belief, McClatchy and its reporters, including Mays, were among the 1,644 persons who retweeted Mair’s June 22, 2018 tweet and/or one of 4,424 people who liked the tweet.

19. The purpose of the concerted defamation campaign was to cause immense pain, intimidate, interfere with and divert Nunes' attention from his investigation of corruption and alleged Russian involvement in the 2016 Presidential Election. The substance and timing of the publication of McClatchy's online articles and the tweets, retweets, replies and likes by Mair and McClatchy reporters demonstrates that McClatchy and Mair were engaged in a joint effort, together and with others, to defame Nunes and interfere with his duties, employment and investigations of corruption as a United States Congressman. The attacks on Nunes were pre-planned, calculated, orchestrated and undertaken by multiple individuals acting in concert, over a continuous period of time throughout 2018. The full scope of the conspiracy, including the names of all participants and the level of involvement of any agents or instrumentalities of foreign governments, is unknown at this time and will be the subject of discovery in this action.

III. JURISDICTION AND VENUE

20. The Circuit Court for the County of Albemarle has jurisdiction of this matter pursuant to § 17.1-513 of the Code.

21. The Defendants are subject to personal jurisdiction in Virginia pursuant to Virginia's long-arm statute, § 8.01-328.1(A)(1), (A)(3) and (A)(4) of the Code, as well as the Due Process Clause of the United States Constitution. The Defendants are subject to general jurisdiction and specific jurisdiction in Virginia. They engage in continuous and systematic business in Virginia. McClatchy owns property and investments in Charlottesville, Virginia. [*see, e.g.,* <http://investors.mcclatchy.com/news-releases/news-release-details/mcclatchy-launches-moonlighting-demand-jobs-marketplace-websites>; <https://www.mcclatchy.com/our-impact/investments>]; <https://twitter.com/Moonlighting>;

<https://www.linkedin.com/company/moonlighting-llc/>;

<https://www.facebook.com/Moonlighting/>]. McClatchy reporters are physically present in Virginia and conducting business in Virginia virtually every day. McClatchy publishes hundreds of stories every year on matters of unique concern to Virginians. McClatchy derives substantial revenue from its property and business in Virginia. The Defendants each have minimum contacts with Virginia such that the exercise of personal jurisdiction over them comports with traditional notions of fair play and substantial justice and is consistent with the Due Process Clause of the United States Constitution.

22. Venue is proper in the Albemarle Circuit Court pursuant to §§ 8.01-262(3-4) and 8.01-263(2) of the Code.

COUNT I – DEFAMATION PER SE

(Against McClatchy)

23. Plaintiff restates paragraphs 1 through 22 of his Complaint, and incorporates them herein by reference.

24. The law of defamation protects a basic constitutional interest: the individual's right to personal security and the uninterrupted entitlement to enjoyment of his reputation. *Gazette, Inc. v. Harris*, 229 Va. 1, 7, 325 S.E.2d 713 (1985) (citation omitted). In *Rosenblatt v. Baer*, Mr. Justice Stewart emphasized that:

“‘Society has a pervasive and strong interest in preventing and redressing attacks upon reputation.’ The right of a man to the protection of his own reputation from unjustified invasion and wrongful hurt reflects no more than our basic concept of the essential dignity and worth of every human being—a concept at the root of any decent system of ordered liberty ... The destruction that defamatory falsehood can bring is, to be sure, often beyond the capacity of the law to redeem. Yet, imperfect though it is, an action for damages is the only hope for vindication or redress the law gives to a man whose reputation has been falsely dishonored ... Surely if the 1950's taught us anything, they taught us that the poisonous atmosphere of the easy lie can infect and degrade a whole society.”

383 U.S. 75, 92-93 (1966); *id.* *Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 12 (1990) (“Good name in man and woman, dear my lord, Is the immediate jewel of their souls. Who steals my purse steals trash; ‘Tis something, nothing; ‘Twas mine, ’tis his, and has been slave to thousands; But he that filches from me my good name Robs me of that which not enriches him, And makes me poor indeed.”) (quoting WILLIAM SHAKESPEARE, *OTHELLO*, act 3 sc. 3)).¹⁹

25. Words like those employed by McClatchy and Mair in this case tending to scandalize a public figure are, in the words of William Blackstone, “reputed more highly injurious than when spoken of a private man”. 3 W. Blackstone, *Commentaries* * 124. At common law, libel of a public official was deemed an offense ““most dangerous to the people, and deserv[ing of] punishment, because the people may be deceived and reject the best citizens to their great injury, and it may be to the loss of their liberties.”” M. Newell, *Defamation, Libel and Slander* § 533 (1890) (quoting *Commonwealth v. Clap*, 4 Mass. 163, 169-170 (1808)); *accord White v. Nicholls*, 3 How. 266, 290 (1845). As a citizen of the United States of America *and* as a United States Congressman sworn to uphold the Constitution and laws of this great country, Nunes has a fundamental, core interest, private right and entitlement to the uninterrupted enjoyment of his reputation. The First Amendment neither alters Nunes’ common law rights nor does it license libel or slander. The Defendants enjoy absolutely no privilege to use the Internet or social media as a weapon to defame.

¹⁹ Libelous speech is not protected by the First Amendment. *Bose Corp. v. Consumers Union of the United States, Inc.*, 466 U.S. 485, 504 (1984) (cited in *Pendleton v. Newsome*, 290 Va. 162, 173, 772 S.E.2d 759 (2015)); *id.* *United States v. Alvarez*, 132 S. Ct. 2537, 2560 (2012) (“false factual statements possess no First Amendment value.”).

26. McClatchy, using the Internet, print media and Twitter, made, published and republished numerous false factual statements of and concerning Nunes. These statements are detailed verbatim above. McClatchy published the false statements without privilege of any kind. After publishing the May 23, 2018 Yacht/Cocaine/Prostitutes hit piece, McClatchy continued to defame Nunes:

a. On May 31, 2018, the “Fresno Bee Editorial Board” implied that Nunes was dishonest, unethical and concealing information from the *Bee*. McClatchy stated that “on the one hand, you can give your account of what you understood the situation to be, explain how what happened on the boat was repugnant to your values, and explain why you continue to be an investor. Chances are the answers would be straightforward. The affair would likely fade from view.²⁰ But if you are Devin Nunes, you choose to be silent and offer no answers to The Bee’s questions.” McClatchy further stated that “it would be hard to imagine he [Nunes] did not learn of this ill-fated cruise soon after it happened since Robin Baggett, the winery owner, is a good friend of the congressman’s who invited him to invest in the first place.” These statements are defamatory by implication. [<https://www.fresnobee.com/opinion/article212299034.html>].

b. On June 8, 2018, in furtherance of the conspiracy to defame Nunes, McClatchy published a story written by Mays about an ethics complaint filed against Nunes by the left-wing non-profit group, “American Democracy Legal Fund” (“ADLF”). The ethics complaint was a sham. According to Mays, the ADLF complaint asked the Office of Congressional Ethics (“OCE”) to “investigate whether Nunes was on

²⁰ The statements published by the *Fresno Bee* on May 31, 2018 demonstrate that the *Bee* did not honestly believe that Nunes had any involvement in the yacht incident.

the yacht” during the incident reported on in Mays’ May 23, 2018 article. McClatchy had no business republishing the ADLF ethics complaint. Mays knew that Nunes was not on the yacht and had never been alleged to be on the yacht. Mays knew the truth. There were obvious reasons, therefore, to doubt the veracity of the ADLF ethics complaint. [See *St. Amant v. Thompson*, 390 U.S. 727, 732 (1968) (“[R]ecklessness may be found where there are obvious reasons to doubt the veracity of the informant.”); *Zerangue v. TSP Newspapers, Inc.*, 814 F.2d 1066, 1071 (5th Cir. 1987) (“[C]ourts have upheld findings of actual malice when a defendant failed to investigate a story weakened by inherent improbability, internal inconsistency, or apparently reliable contrary information.”); see *ZS Associates, Inc. v. Synygy, Inc.*, 2011 WL 2038513, at * 4 (E.D. Pa. 2011) (“The [fair report] privilege was not ‘intended to permit a person maliciously to institute a judicial proceeding, alleging false and defamatory charges, then to circulate a press release or other communication based thereon, and, ultimately to escape liability by invoking the fair report privilege’”) (citations and quotation omitted)]. McClatchy published the ADLF ethics complaint in spite of its actual knowledge of the true facts, and in furtherance of the scheme or artifice to defame Nunes. Mays used a “straw man” (ADLF) to do indirectly what Mays could not do directly – publish false statements that Nunes was on the yacht with prostitutes and cocaine. McClatchy’s June 8, 2018 article recklessly republished the ADLF complaint and a number of patently false statements alleged to be attributed to the ADLF, including:

“‘At best, congressman Nunes' company hosted an event featuring sex workers and illegal drug use, and even worse, it is possible he participated in illegal activity along with his business partners,’ said Brad Woodhouse, treasurer of the American Democracy Legal Fund, based in D.C. ‘Nunes’ constituents deserve a prompt and thorough investigation to determine exactly what took place and the extent to which congressman Nunes was involved.’”

[<https://www.fresnobee.com/news/politics-government/politics-columns-blogs/political-notebook/article212769539.html>]. Mays republished the June 8, 2018 article to her Twitter followers. [<https://twitter.com/MackenzieMays/status/1005227658496520192>].

As a republisher of a defamatory statement, McClatchy is subject to the same liability as the original publisher, ADLF.

c. On June 14, 2018, McClatchy falsely accused Nunes of lying and spreading “fake news” about the Fresno Bee in a YouTube video. [<https://twitter.com/MackenzieMays/status/1007385433301372928>; <https://twitter.com/josephkieta/status/1007386853656260608>].

d. On July 11, 2018, in furtherance of the conspiracy to defame Nunes, McClatchy published a story written by Mays about ethics complaints filed against Nunes by “left-leaning federal government watchdog group” “Campaign for Accountability” and the “Swamp Accountability Project”.²¹ The complaints were total shams. According to Mays, the Swamp Accountability Project was an “anti-Trump group in D.C.” Mays concealed the fact that Mair is an opposition research operative who admittedly smears targets, such as Nunes, for pay from as-yet anonymous clients. This was a crucial omission, since it would have revealed Mair’s motives and cast grave doubt on her credibility and veracity *and* on the credibility and veracity of her handlers.

²¹ Mair operates the Swamp Accountability Project. Mair prepared and filed the ethics complaint, which McClatchy eagerly regurgitated.

Mays quoted parts of the Swamp complaint. The complaint falsely stated and/or implied that Nunes had violated the House ethics rules and code of conduct [<https://ethics.house.gov/publication/code-official-conduct>] and should be investigated. [<https://www.fresnobee.com/news/politics-government/politics-columns-blogs/political-notebook/article214693435.html>]. Mays republished the June 11, 2018 article via Twitter. <https://twitter.com/MackenzieMays/status/1017146181355360257>].

e. On July 19, 2018, McClatchy published an article that falsely accused Nunes of misusing campaign funds. In the article, Mair was quoted accusing Nunes of corruption, and once again McClatchy failed to inform readers of Mair's employment with Mair Strategies, an opposition research company that, in Mair's own words, "smears" targets for paying clients [<https://www.mcclatchydc.com/news/politics-government/article215099780.html>]. McClatchy reporter, Kate Irby, tweeted the article to her 6,000+ followers on Twitter in Virginia and else throughout the United States. [<https://twitter.com/kateirby/status/1019930527799881728>].²²

27. At all times relevant to this action, Mair acted as a co-conspirator and agent of McClatchy. While the conspiracy between Mair and McClatchy continued, Mair made, published and republished numerous false factual statements of and concerning Nunes. These statements are detailed verbatim above. Mair published the false statements without privilege of any kind. McClatchy is liable for Mair's false and defamatory statements as a matter of law.

28. The false statements constitute defamation *per se*. The statements accuse and impute to Nunes the commission of crimes involving moral turpitude and for which

²² On July 19, 2018, Mair tweeted on the same subject matter. [<https://twitter.com/LizMair/status/1020037699472850945>].

Nunes may be punished and imprisoned in a state or federal institution. The statements impute to Nunes an unfitness to perform the duties of an office or employment for profit, or the want of integrity in the discharge of the duties of such office or employment. Finally, McClatchy's false statements also prejudice Nunes in his profession and employment as a United States Congressman.

29. By publishing the Yacht/Cocaine/Prostitutes article in print, on the Internet, and by tweeting it to the Twitter universe, McClatchy knew or should have known that its defamatory statements would be republished over and over by third-parties to Nunes' detriment. Republication by both identified subscribers and Twitter users, such as Kasie Hunt, and by anonymous persons was the natural and probable consequence of McClatchy's actions and was actually and/or presumptively authorized McClatchy. In addition to the original publications of the Yacht/Cocaine/Prostitutes hit piece, McClatchy is liable for the republications of the false and defamatory statements by third-parties under the doctrine (the "republishing rule") announced by the Supreme Court of Virginia in *Weaver v. Home Beneficial Co.*, 199 Va. 196, 200, 98 S.E.2d 687 (1957) ("where the words declared on are slanderous per se their repetition by others is the natural and probable result of the original slander.").

30. McClatchy's false statements have harmed Nunes and his reputation.

31. McClatchy made the false statements with actual or constructive knowledge that they were false or with reckless disregard for whether they were false. McClatchy acted with actual malice and reckless disregard for the truth for the following reasons:

a. McClatchy conceived a story line in advance of any investigation and then consciously set out to make the evidence conform to the preconceived story. McClatchy pursued and regurgitated preconceived narratives about Nunes that it knew to be false, and intentionally employed a scheme or artifice to defame Nunes with the intent to interfere with and impede Nunes' investigations of corruption and alleged "collusion" during the 2016 presidential campaign and to cause Nunes to lose the 2018 Congressional election. McClatchy and its reporters acted intentionally, purposefully and in concert with Mair to accomplish an unlawful purpose through unlawful means, without regard for the Nunes' rights and interests.

b. McClatchy knew its statements were false, and possessed information that demonstrated the falsity of their statements. In a YouTube video published by Nunes on June 18, 2018 in response to McClatchy's Yacht/Cocaine/Prostitutes hit piece, Nunes pointed out the following:

Statement provided by the winery:

The Fresno Bee cited false information stating that the people aboard the boat were Alpha Omega investors. In fact, as we informed the Bee, those aboard the boat had no personal or business connection to the winery or its owners.

Statement provided by the winery:

Furthermore, a Bee editorial claimed it's unclear if Mr. Nunes was affiliated with the fundraiser for the boat, when in fact we repeatedly told the Bee that he had no affiliation with it whatsoever.

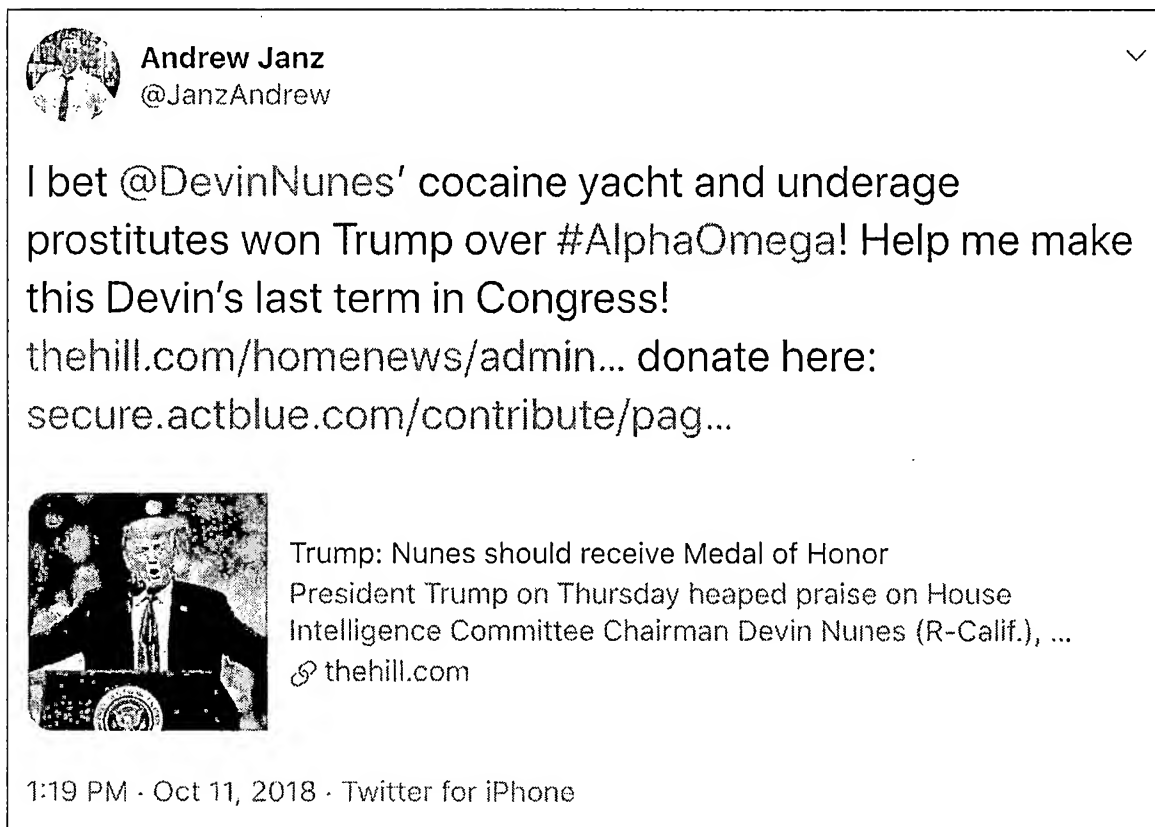
Statement provided by the winery:

The Fresno Bee also falsely reported that Alpha Omega sold wine to Russia while Mr. Nunes led an investigation of that country. We would appreciate it if the Fresno Bee would stop regurgitating false stories when it has the facts.

[https://www.youtube.com/watch?v=mj9_Bsd1LPQ]. McClatchy published a knowingly false report that the Alpha Omega Winery sold wine to Russia “**while**” Nunes, as a member of the House Permanent Select Committee on Intelligence, led an investigation into alleged Trump-Russia “collusion”. McClatchy compounded its wrongdoing by retracting the falsity via a deceitful stealth edit to the Yacht/Cocaine/Prostitutes article. After being confronted by Nunes, McClatchy refused to acknowledge either the original falsehood or the stealth edit in their op-ed addressing this precise question. Finally, McClatchy boss, Kieta, bragged that the *Fresno Bee* has never “had to” issue a retraction on Nunes coverage, implying that the *Bee* has never made any factual mistakes that had to be corrected. McClatchy’s fraudulent, deceitful, deceptive, unethical and untruthful actions and omissions, which occurred over a six month period in 2018, show its actual malice towards Nunes.

c. McClatchy, and its reporters, editors and publishers abandoned all journalistic standards in writing, editing and publishing the Yacht/Cocaine/Prostitutes article. One newspaper, the *Visalia Times-Delta*, would not even touch the story. [<https://www.visaliatimesdelta.com/story/news/politics/elections/2018/10/03/devin-nunes-escalates-war-against-fresno-bee/1503743002/>] (“The Times-Delta/Advance-Register did not pursue the story because editors decided the lawsuit’s ties to Nunes were

tenuous. There were no allegations that Nunes was involved in any way with the charity event, aside from being an investor in the winery.”). Mays behaved more like a political operative than a journalist. For instance, in August 2018 Mays coordinated efforts with Nunes’ opponent in his Congressional race and with protestors to stage a stunt at Nunes’ office. During the stunt, the building manager called the police and Mays was thrown out of the building. [<https://twitter.com/MackenzieMays/status/1029395004819533824>]. Nunes’ opponent republished the false statements in McClatchy’s Yacht/Cocaine/Prostitutes hit piece. On October 11, 2018, for instance, he tweeted the following statement about Nunes:



d. McClatchy relied on sources, such as the ADLF, that it knew to be wholly debunked and unreliable.

e. McClatchy was in possession of information, including statements from the Alpha Omega Winery, that demonstrated that McClatchy's statements about Nunes were false.

f. In article after article, McClatchy and its reporters exhibited an institutional hatred for Nunes, spite, ill-will and the intent to hurt Nunes and impugn his character. [See, e.g., <https://twitter.com/MarekTheBee/status/1047940239681933312> ("Joe McCarthy, Karl Marx, Alexander The Great ... and @DevinNunes. Just another propagandist"); <https://twitter.com/MackenzieMays/status/1047969215141969920> (accusing Nunes of lying in a mailer)]. On January 25, 2018, McClatchy misrepresented that Nunes "said he'd seen secret intelligence reports backing Trump's claims that President Barack Obama had 'wiretapped' his offices, but it turned out the documents came from the administration." Nunes never said reports he saw supported Trump claims that his offices had been wiretapped. In truth, Nunes repeatedly said there was no evidence Trump's office had been wiretapped. [See, e.g., <https://www.nytimes.com/2017/03/16/us/politics/richard-burr-mark-warner-trump-wiretap.html>; <https://www.nytimes.com/2017/03/15/us/politics/trump-wiretap-claim-obama-comey-congress.html?module=inline> ("The Republican chairman of the House Intelligence Committee, Representative Devin Nunes of California, told reporters on Capitol Hill that 'I don't think there was an actual tap of Trump Tower' and that Mr. Trump, if taken literally, is simply 'wrong.'")]. Between 2017 and March 22, 2019, McClatchy's most prominent national reporters were at the forefront of advancing the false narrative that Trump campaign associates and allies colluded with Russia to influence the 2016 election. McClatchy published over twenty (20) articles in which it

went all in on the false narrative.²³ Nunes posed a threat to McClatchy. Between 2017 and March 22, 2019 – when the Attorney General announced Special Counsel Mueller found no collusion between the Trump campaign and Russia – Nunes argued emphatically that there was no “collusion” between Trump associates and Russia to hack the 2016 presidential election, and that McClatchy was perpetuating a hoax and lying to the American people. McClatchy defamed Nunes in order to interfere with Nunes’ investigation and to hinder his work debunking the collusion allegations in general and the Steele dossier in particular.

g. McClatchy exhibited extreme bias in its reporting, editing and publishing concerning Nunes. On August 21, 2018, *Vice News* interviewed Kieta. Kieta made the following statements:

“VICE NEWS: So you're kind of just giving up on that pocket of the readership or the community that believes Devin Nunes.

KIETA: I wouldn't say I'm giving up on them, but I do think that there's some people who, you're just never gonna convince them.”

[<https://www.facebook.com/VICENewsTonight/videos/534622466994510/>;

<https://www.youtube.com/watch?v=LO-X8MMTRco>]. Newspapers should be in the

²³ Throughout 2018, McClatchy published false stories to stoke the Russian “collusion” narrative. In addition to stories about Cohen and Prague, McClatchy attacked Cleta Mitchell, an attorney who represented the National Rifle Association (“NRA”) for years. McClatchy completely fabricated a story that Ms. Mitchell had “concerns about [the NRA’s] ties to Russia and its possible involvement in channeling Russian funds into the 2016 elections to help Donald Trump.” [<https://www.mcclatchydc.com/news/politics-government/congress/article205412394.html>; <https://www.foley.com/mitchell-comments-on-being-falsely-implicated-in-trump-russia-investigation-08-31-2018/>; <https://www.foley.com/mitchell-comments-on-being-falsely-implicated-in-trump-russia-investigation-08-31-2018/>; <https://www.wsj.com/articles/anatomy-of-a-fusion-smear-1535757026>]. McClatchy’s hit pieces on Cohen, Mitchell and Nunes clearly demonstrate that McClatchy was an active participant in a calculated and concerted political operation, using information taken from a for-pay opposition research firm (Fusion GPS), for the sole purpose of furthering the Russian “collusion” narrative.

business of reporting the truth, not trying to “convince” their readers to vote against a candidate for office. Coupled with Kieta’s other statements about Nunes described above in this Complaint, Kieta’s statement to *Vice News* evidences McClatchy’s political agenda and extreme bias towards Nunes. It was not long before Kieta flip-flopped and attempted to back-track on his admission of bias. When he was asked about the *Vice News* quote later in a radio interview with Valley Public Radio, Kieta flatly denied that the question he had been asked had anything to do with Nunes or his supporters. [Again, the question was, “So you’re kind of just giving up on that pocket of **the readership or the community that believes Devin Nunes**.” (emphasis added)]. When asked directly by Valley Public Radio about his “convince” quote, Kieta stated:

“So that quote was taken during an interview I did with Vice News a few months ago. And the question was asked to me, ‘Are you just giving up on people who don’t agree with you?’ It had nothing to do with Nunes supporters, it had nothing to do with the Nunes campaign in specific.”

[<https://www.kvpr.org/post/look-inside-40-page-nunes-mailer-targeting-fresno-bee>].

Kieta’s actions illustrate the extent to which McClatchy will compound lies about Nunes.

h. McClatchy chose to manufacture and publish false and scandalous statements and use insulting words that were unnecessarily strong and that constitute violent, abusive and hateful language, disproportionate to the occasion, in order to undermine public confidence in Nunes, distract Nunes from the Russia investigation, and affect the 2018 election. The words chosen by the McClatchy evince their ill-will, spite and actual malice.

i. McClatchy did not act in good faith because, in the total absence of evidence, it could not have had an honest belief in the truth of its statements about Nunes.

j. McClatchy reiterated, repeated and continued to republish the false defamatory statements about Nunes, including the Yacht/Cocaine/Prostitutes hit piece, out of a desire to hurt Nunes and to permanently stigmatize him. McClatchy's stories about Nunes were among the *Fresno Bee's* most-read stories of 2018, a fact that was emphasized by the *Bee*. [<https://www.fresnobee.com/news/local/article223345580.html>; <https://twitter.com/MackenzieMays/status/1078718800982208512>].

k. McClatchy initiated the defamation in retaliation and reprisal, and went out of their way to publish and then republish false statements about Nunes that McClatchy knew were untrue.

l. Nunes loudly and publicly, in advertisements and on YouTube, demanded a retraction of McClatchy's defamatory statements. McClatchy not only refused to retract, but they retaliated against Nunes and doubled-down on their concerted efforts to injure Nunes, forcing Nunes to spend hundreds of thousands of dollars (with mailers, radio, television and digital ads) defending himself against the malicious attacks that went on for months through the 2018 Congressional election.

32. As a direct result of McClatchy's defamation, Nunes suffered presumed damages and actual damages, including, but not limited to, insult, pain, embarrassment, humiliation, mental suffering, injury to his reputation, special damages, costs, and other out-of-pocket expenses, in the sum of \$150,000,000 or such greater amount as is determined by the Jury.

COUNT II – COMMON LAW CONSPIRACY

(Against All Defendants)

33. Plaintiff restates paragraphs 1 through 32 of his Complaint, and incorporates them herein by reference.

34. Beginning in 2018 and continuing through the present, McClatchy (including reporters such as Mays acting within the scope of their employment for McClatchy), Mair and Mair Strategies combined, associated, agreed or acted in concert together and with one or more “clients”, opposition research firms, strategic intelligence firms, donors, non-profits, operatives or agents (whose identity is unknown at this time)²⁴ for the express purposes of injuring Nunes, intentionally and unlawfully impeding and interfering with his business and employment as a United States Congressman, and defaming Nunes. In furtherance of the conspiracy and preconceived plan, McClatchy, Mair and Mair Strategies engaged in a joint scheme the unlawful purpose of which was to destroy Nunes’ personal and professional reputations, advance the goals of the dark money behind the paid-for smear campaign, interfere with Nunes’ duties as a United States Congressman, and influence the outcome of a federal election.

35. McClatchy, Mair and Mair Strategies acted intentionally, purposefully, without lawful justification, and with the express knowledge that they were defaming

²⁴ The House Permanent Select Committee on Intelligence oversees the nation’s intelligence agencies, including components of the Departments of Defense, Homeland Security, Justice, State, Treasury and Energy. Nunes is Ranking Member of the House Permanent Select Committee on Intelligence. It is in the nation’s interest to expose the persons behind McClatchy and Mair’s smear campaign and the attempts to interfere with Nunes’ investigations as a United States Congressman, whether such persons be domestic operatives or agents/instrumentalities of foreign governments.

Nunes. As evidenced by their concerted action online and via Twitter, the Defendants acted with the express and malicious intent to cause Nunes permanent injury.

36. The Defendants' actions constitute a conspiracy at common law.

37. As a direct result of the Defendants' willful misconduct, Nunes suffered actual damages, including, but not limited to, insult, pain, embarrassment, humiliation, mental suffering, injury to his reputation, special damages, costs, and other out-of-pocket expenses, in the sum of \$150,000,000 or such greater amount as is determined by the Jury.

COUNT III – INJUNCTION

(Against McClatchy)

38. Plaintiff restates paragraphs 1 through 37 of his Complaint, and incorporates them herein by reference.

39. In order to protect Nunes's property interests and his reputation, Nunes requests the Court to permanently enjoin and order McClatchy to deactivate all hyperlinks to all online articles and all tweets, retweets, replies and likes by McClatchy or any of its agents that contain false and defamatory statements about Nunes.

40. Nunes has no adequate remedy at law. The continued publication of the offending defamation on the Internet constitutes an ongoing nuisance and trespass upon Nunes' reputation and interests in his name.

41. Without Court intervention and an injunction, Nunes will suffer actual and irreparable injury to his property interests and personal rights by the mere fact that Defendants' defamatory tweets can be retweeted and republished forever by third-parties.

42. There is a substantial likelihood that Nunes will succeed on the merits of his claims.

Nunes alleges the foregoing based upon personal knowledge, public statements of others, and records in his possession. Nunes believes that substantial additional evidentiary support, which is in the exclusive possession of McClatchy, Mair, Mair Strategies, and their agents and other third-parties, will exist for the allegations and claims set forth above after a reasonable opportunity for discovery.

Nunes reserves his right to amend this Complaint upon discovery of additional instances of Defendants' wrongdoing.

CONCLUSION AND REQUEST FOR RELIEF

WHEREFORE, Devin G. Nunes respectfully requests the Court to enter Judgment against the Defendants, jointly and severally, as follows:

A. Compensatory damages in the amount of \$150,000,000 or such greater amount as is determined by the Jury;

B. Punitive damages in the amount of \$350,000 or the maximum amount allowed by law;

C. An injunction against McClatchy;

D. Prejudgment interest from May 23, 2018 until the date Judgment is entered at the maximum rate allowed by law;

E. Postjudgment interest at the rate of six percent (6%) per annum until paid;

F. Attorney's Fees and Costs;

G. Such other relief as is just and proper.

TRIAL BY JURY IS DEMANDED

DATED: April 8, 2019

DEVIN G. NUNES

By: 

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